

BLM Southwest Colorado Resource Advisory Council

Minutes from meeting on Friday, February 20, 2004

Silverton, Colorado

Present: Kelly Wilson, John Field, Andrea Robinsong, Nick Kendzierski, Kathy Welt, Andrew Gulliford, Ann McCoy Harold, Mallory Dimmitt, Alan Staehle, Tony Gurzick, Art Goodtimes. BLM staff: Mark Stiles, Barry Tollefson, Steven Hall, Pauline Ellis, Charlie Higby

Meeting commenced at 9:10 a.m.

Mark Stiles reported that staffing solutions for the RACs continues to be an issue. He promised Hall that he would not be the full time RAC coordinator.

Stiles passed out an interpretation of the recent lawsuit regarding the RAC appointment process in 2000.

Stiles introduced San Juan County Commissioners Peter McKay and Terry Rhoades.

9:35, public comment. TJ Brown of the Southern Rockies Conservation Alliance introduced himself and reported that he would be working on RS 2477 issues.

Gulliford asked for clarification on the importance of the Dept. of Interior's RS 2477 settlement in Utah. Colorado Mountain Club Conservation Director Vera Smith said that the General Accounting Office has issued a legal opinion that the settlement is illegal. Stiles asked that the discussion be delayed until later in the agenda, when more could be offered by BLM and USFS staff at the meeting.

Representatives from the Silverton Mountain School spoke on the need for public land managers to continue to support lifetime recreation opportunities. The school has 170 members, 100 of which are Silverton residents.

Public comment stopped at 9:45.

Stiles spoke to the background of RS 2477, which he described as a simple statute with a complex interpretation. The statute was repealed by FLPMA in 1976. San Juan County submitted RS 2477 claims in 1988. Counties have used a variety of approaches in addressing RS 2477 claims.

Staehle reported that Ouray County submitted that all historic right-of-ways be recognized under RS 2477 to provide that county with the maximum flexibility.

Stiles said that national monument designations, citizen wilderness proposals, and lawsuits in the previous administration brought the issue to a head. Congress has mandated that funds not be spent to develop regulations for processing RS 2477 claims.

Gulliford said that a clarification of state v. Federal primacy should be based on facts and good definitions of the issues involved. In Ouray County, the issue affects private as well as public property, which many haven't considered.

Stiles reported that in 1995 Congress passed legislation that prohibits the use of appropriations to develop procedures for processing RS 2477 claims. In 1997, then Secretary of the Interior Bruce Babbitt issued a moratorium on processing RS 2477 claims.

Commissioner McKay thanked Stiles for his summary of the issue. San Juan County's position is that the federal agencies and the counties should be able to move forward on processing the non-controversial RS 2477 claims, i.e. those that do not involve "reserve" areas like wilderness, national parks or monuments and wilderness study areas. Resolution is a critical issue for San Juan County, where 86% of the county is public land. Under this moderate approach, all parties could agree to shelve the controversial RS 2477 claims, like those in reserve areas, for a later date.

Commissioner Rhoades added that 99% of the roads in question in San Juan County lead to mines and keeping those roads open is vital for tourism. McKay added that in the past the county has informally maintained roads on federal lands.

Gulliford recommended that an independent commission be formed to help with definitions for the issue. Gurzick asked how the counties approached RS 2477 with respect to private property.

A lengthy discussion resulted, with examples from Ouray, San Miguel, Montezuma, Hinsdale and San Juan counties' various approaches to entering maintenance agreements, zoning, condemnation and recording county roads. Also, local government representatives pointed out that often federal agencies are not consistent in how they manage rights-of-way issues.

Vera Smith reported on legislation introduced by Rep. Mark Udall (D-CO) and said that Colorado has an opportunity to forge a "moderate" solution to RS 2477. Utah, according to Smith, "went off the deep end" and "did something crazy" (prior to the recent MOU) which Colorado should try to avoid.

11:30 Break for lunch

1 p.m. The discussion on RS 2477 continued, with Staehle disagreeing with information presented in a news story handed out by Smith (Boulder County). Gulliford said that grazing routes and trails need to be considered in RS 2477 discussions. Stiles pointed out that these types of debates are exactly why RS 2477 is such a complicated issue.

Welt asked if the RAC could agree to some recommendation on RS 2477. The RAC recommended that Congress and the Dept. of the Interior need to find ways to resolve RS 2477 claims, particularly in non-controversial areas that do not involve reserved public

lands (i.e. wilderness, national parks, roadless areas, etc.). There is frustration in local communities in southwestern Colorado regarding the lack of progress on this issue.

Project updates: Stiles reported on the progress of the Silverton Ski Area EIS. The RAC expressed concern over possible “eleventh hour” changes to the proposed ski area, most notably heli skiing. San Juan County reported that they have unanimous support for the ski area, but have not heard enough about the possible heli-skiing proposal.

Stiles reported on the EIS being prepared for proposed natural gas leasing in the Northern San Juan Basin. A recent New Mexico BLM EIS referenced the air quality work that will be done as part of the Colorado EIS. A subcommittee of RAC members from the area will be involved in gathering public comment.

Dimmitt asked that that group report back on their work at a future RAC meeting.

McKay presented a proposed land exchange favored by the San Juan Historical Society. The project has been in the works for three years. San Juan Gold, a private company involved in the exchange, is leaving the area and liquidating its assets, McKay said, making the exchange very timely.

Deb Rich of the San Juan County Historical Society supported the exchange, saying it would preserve historic buildings in the area that are important to the community and for their historical and cultural legacy.

Gulliford moved that the RAC resolve to support processing the exchange with “all due speed.”

Goodtimes reminded Gulliford that there was not a quorum from each of the three categories. An informal resolution was passed urging the BLM to support the proposal and “move as fast as possible” to initiate. The vote was unanimous.

Gurzick asked that a report on the progress of the exchange be included in the next RAC meeting.

Ed Zink, former RAC member, addressed the RAC regarding bicycling in the Canyon of the Ancients National Monument. Zink quoted from correspondence by former Interior Secretary Babbitt regarding land uses and planning in the monument. The National Trust for Historic Preservation had sent a letter to the BLM indicating that mountain biking should not be allowed in some areas of the monument based on language in the proclamation that created the national monument.

Stiles said that no changes had yet been made in management on the ground. Mountain bike use is proliferating in some areas and steps may be needed to address resource damage. These steps would be made as part of the planning process. Stiles reported that there have indeed been resource concerns generated by recent mountain bike use in areas

that have not been cleared for such use and encouraged Zink to help us find ways to deal with those issues.

Wilson reported on his work on the Canyon of the Ancients Resource Advisory Council, which is working on this and many other planning issues.

Dimmitt asked the RAC to support an application for a weed management grant in the Uravan area. Another grant for the San Miguel Watershed Coalition would make a fish friendly ladder on an irrigation diversion on the San Miguel River. The RAC agreed to support Dimmitt drafting a letter and circulating among the members, with the letter to be sent by the March 22 deadline. The motion to support was made by Staehle and seconded by Harold.

The next meeting of the SW RAC will be May 21, the location to be determined.